

Congressman Garrett Testimony for SOX Hearing 9/19/06

Thank you, Mr. Chairman, for holding this important hearing. I know that you have invested countless hours into this issue and this legislation. I am grateful for all you have done to address investor confidence in our markets and to ensure that honest, forthright American businesses are not penalized for the transgressions of a few bad actors.

I would also like to thank SEC Chairman Cox and PCAOB Chairman Olson for appearing here today. I would like to note that staff in both of your offices have been very helpful to me and to my staff in navigating the provisions and requirements of Sarbanes-Oxley.

Four years ago, in the wake of massive accounting scandals at firms like Enron and WorldCom, two of America's largest publicly listed companies, Congress enacted the Sarbanes-Oxley Act (SOX). The intent of the Act was to restore investor confidence in our markets through greater accountability and disclosure – a worthy goal and I commend my Chairman for taking on this Herculean task. But, where I part ways somewhat with you, Mr. Chairman, is my assessment of the unintended consequences of SOX. Regrettably, the Act has had the unintended effect of creating undue—and often unbearable—burdens on small, honestly-run businesses.

It is diverting valuable resources away from other legitimate business needs; creating massive and tedious documentation requirements; and discouraging the public listing of both international and domestic companies on U.S. markets. Honest companies are being punished and the U.S. economy is having to carry the weight.

Officials at both Enron and Worldcom broke laws already on the books and were successfully prosecuted under existing law. And, one glance at the Dow Industrial Average, which actually rose after disclosure of the Enron problems, belies the notion that investor confidence in U.S. markets was particularly undermined or eroded by these scandals.

The part of the Act that is causing the most trouble for our nation's small businesses is Section 404, which sets rigid requirements for internal control structure and procedures for extensive financial reporting and assessment. In fact, 9 out of 10 complaints about SOX are related to this section. Even before SOX, companies understood that integrity in accounting fosters greater trust in the marketplace and, in turn, more profits, and they were acting to weed out fraud and slipshod accounting. The extra requirements of this section pile on significant additional costs. Section 404 adds external consulting costs, including legal fees, and substantially increases the audit and attestation fees for these companies.

I know both the SEC and PCAOB are working diligently to craft new guidelines to ease this tremendous burden on small businesses. I look forward to hearing from Chairman Cox and Chairman Olson directly about how these revisions are progressing and what feedback and input they have been receiving from the private sector.

When businesses have been conducting their affairs within the confines of pre-SOX law and acting with integrity it is reflected in the trust of their shareholders and the strength of the market. There is a place for Federal oversight, but the weighty burden of Section 404 is slowly strangling small businesses and our domestic markets. Thank you, Mr. Chairman. I regret that you will be retiring at the end of this year and will not be leading our efforts to fine tune your landmark legislation. I am hopeful, however, that myself and your other colleagues will be able to live up to the high standard of excellence you have set for us and that any refinements will reflect the spirit of your leadership. I yield back.